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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

PAUL HAMMOND, individually and) Case No.
on behalf of all others similarly situated,)

) **CLASS ACTION**
Plaintiff,)

) **COMPLAINT FOR VIOLATIONS**
vs.) **OF:**

)
WESTLAKE SERVICES, LLC d/b/a) 1. NEGLIGENT VIOLATIONS
WESTLAKE FINANCIAL) OF THE TELEPHONE
SERVICES, and DOES 1 through 10,) CONSUMER PROTECTION
inclusive, and each of them,) ACT [47 U.S.C. §227 ET
) SEQ.]
) 2. WILLFUL VIOLATIONS
Defendant.) OF THE TELEPHONE
) CONSUMER PROTECTION
) ACT [47 U.S.C. §227 ET
) SEQ.]
) 3. FAIR DEBT COLLECTION
) Fair Debt Collection
) Practices Act, 15 U.S.C. §
) 1692, *et seq.*
) 4. VIOLATIONS OF THE
) ROSENTHAL FAIR DEBT
) COLLECTION PRACTICES
) ACT [CAL. CIV. CODE
) §1788 ET SEQ.]

) **DEMAND FOR JURY TRIAL**
)

1 Plaintiff PAUL HAMMOND (“Plaintiff”), individually and on behalf of all
2 others similarly situated, alleges the following against Defendant WESTLAKE
3 SERVICES, LLC d/b/a WESTLAKE FINANCIAL SERVICES upon information
4 and belief based upon personal knowledge:

5 **INTRODUCTION**

6 1. Plaintiff’s Class Action Complaint is brought pursuant to the
7 Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. (“TCPA”).

8 2. Plaintiff, individually, and on behalf of all others similarly situated,
9 brings this Complaint for damages, injunctive relief, and any other available legal
10 or equitable remedies, resulting from the illegal actions of Defendant in
11 negligently, knowingly, and/or willfully contacting Plaintiff no Plaintiff’s cellular
12 telephone, thereby the TCPA, 47 U.S.C. § 227. Plaintiff alleges as follows upon
13 personal knowledge as to himself and his own acts and experiences, and, as to all
14 other matters, upon information and belief, including investigation conducted by
15 his attorneys.

16 3. In addition to Plaintiff’s Class Claims, Plaintiff also brings an action
17 for damages as an individual consumer for Defendant’s violations of the federal
18 Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter
19 “FDCPA”) and the Rosenthal Fair Debt Collection Practices Act, Cal Civ. Code
20 §1788, et seq. (hereinafter “RFDCPA”) which prohibit debt collectors from
21 engaging in abusive, deceptive, and unfair practices.

22 **JURISDICTION AND VENUE**

23
24
25 4. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,
26 a resident of California, seeks relief on behalf of a Class, which will result in at
27 least one class member belonging to a different state than that of Defendant, a
28 California company that does business in the state of California. Plaintiff also seeks

1 up to \$1,500.00 in damages for each call in violation of the TCPA, which, when
2 aggregated among a proposed class in the thousands, exceeds the \$5,000,000.00
3 threshold for federal court jurisdiction. Therefore, both diversity jurisdiction and
4 the damages threshold under the Class Action Fairness Act of 2005 (“CAFA”) are
5 present, and this Court has jurisdiction.

6 5. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 over
7 Plaintiff’s claims arising under the FDCPA, 15 U.S.C. § 1692, *et seq.* Ancillary to
8 this claim, this Court has jurisdiction pursuant to 28 U.S.C. § 1367(a) over
9 Plaintiff’s claims arising under the RFDCPA, Cal. Civ. Code § 1788, *et seq.*

10 6. Venue is proper in the United States District Court for the Central
11 District of California pursuant to 28 U.S.C. § 1391(b)(2) because Defendant does
12 business within the State of California and Plaintiff resides within this District.

13 **PARTIES**

14 7. Plaintiff, PAUL HAMMOND (“PLAINTIFF”), is a natural person
15 residing in Los Angeles County in the state of California, and is a “person” as
16 defined by 47 U.S.C. § 153(39). Furthermore, Plaintiff is a “consumer” as defined
17 by the FDCPA, 15 U.S.C. §1692a(3) and a “debtor” as defined by the RFDCPA,
18 Cal. Civ. Code § 1788.2(h).

19 8. At all relevant times herein, DEFENDANT, WESTLAKE
20 SERVICES, LLC d/b/a WESTLAKE FINANCIAL SERVICES
21 (“DEFENDANT”), is finance company, and is a “person” as defined by 47 U.S.C.
22 § 153(39). Furthermore, Defendant, at all relevant times herein, was a company
23 engaged, by use of the mails and telephone, in the business of collecting a debt
24 from PLAINTIFF which qualifies as a “debt,” as defined by 15 U.S.C. §1692a(5).
25 DEFENDANT regularly attempts to collect debts alleged to be due another, and
26 therefore is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6) and
27
28

1 the RFDCPA, Cal. Civ. Code § 1788.2(c).

2 9. The above named Defendant, and its subsidiaries and agents, are
3 collectively referred to as “Defendants.” The true names and capacities of the
4 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are
5 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
6 names. Each of the Defendants designated herein as a DOE is legally responsible
7 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend
8 the Complaint to reflect the true names and capacities of the DOE Defendants
9 when such identities become known.

10 10. Plaintiff is informed and believes that at all relevant times, each and
11 every Defendant was acting as an agent and/or employee of each of the other
12 Defendants and was acting within the course and scope of said agency and/or
13 employment with the full knowledge and consent of each of the other Defendants.
14 Plaintiff is informed and believes that each of the acts and/or omissions
15 complained of herein was made known to, and ratified by, each of the other
16 Defendants.

17
18 **FACTUAL ALLEGATIONS – TCPA**

19
20 11. Beginning in or around November of 2018, Defendant contacted
21 Plaintiff on her cellular telephone number ending in -8791, in an effort to collect
22 an alleged debt owed from Plaintiff.

23 12. Defendant called Plaintiff from telephone numbers confirmed to
24 belong to Defendant, including without limitation (818) 924-3879, (818) 924-3872,
25 (818) 924-2991, (818) 924-2430, (818) 924-3850, (888) 739-9192, (888) 706-
26 3772, (424) 381-0886.

27 13. In its efforts to collect the alleged debt owed from Plaintiff, Defendant
28 used an “automatic telephone dialing system,” as defined by 47 U.S.C. § 227(a)(1)

1 to place its daily calls to Plaintiff seeking to collect an alleged debt owed.

2 14. Defendant's calls constituted calls that were not for emergency
3 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

4 15. Defendant's calls were placed to telephone number assigned to a
5 cellular telephone service for which Plaintiff incurs a charge for incoming calls
6 pursuant to 47 U.S.C. § 227(b)(1).

7 16. During all relevant times, Defendant did not possess Plaintiff's "prior
8 express consent" to receive calls using an automatic telephone dialing system or an
9 artificial or prerecorded voice on his cellular telephone pursuant to 47 U.S.C. §
10 227(b)(1)(A). Furthermore, Plaintiff orally revoked any and all consent to be
11 contacted using an automated telephone dialing system, to the extent any ever
12 existed.

13
14 **FACTUAL ALLEGATIONS – FDCPA**

15 17. In addition to the facts pled above, at various times prior to the filing
16 of the instant complaint, including within one year preceding the filing of this
17 complaint, DEFENDANT contacted PLAINTIFF in an attempt to collect an
18 alleged outstanding debt.

19 18. On or about November 2018, Plaintiff began receiving numerous
20 calls from Defendant.

21 19. Each of these calls were made to Plaintiff in connection with
22 collection on an alleged debt.

23 20. On several occasions, Plaintiff told Defendant to stop calling her, but
24 Defendant continued to call.

25 21. DEFENDANT'S conduct violated the FDCPA and RFDCPA in
26 multiple ways, including but not limited to:
27
28

- a) Causing a telephone to ring repeatedly or continuously to annoy Plaintiff (Cal. Civ. Code § 1788.11(d));
- b) Communicating, by telephone or in person, with Plaintiff with such frequency as to be unreasonable and to constitute an harassment to Plaintiff under the circumstances (Cal. Civ. Code § 1788.11(e));
- c) Causing Plaintiffs telephone to ring repeatedly or continuously with intent to harass, annoy or abuse Plaintiff (15 U.S.C. § 1692d(5));
- d) Communicating with Plaintiff at times or places which were known or should have been known to be inconvenient for Plaintiff (15 U.S.C. § 1692c(a)(1)); and
- e) Engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff (15 U.S.C. § 1692d)).

22. As a result of the above violations of the FDCPA and RFDCPA, Plaintiff suffered and continues to suffer injury to PLAINTIFF'S feelings, personal humiliation, embarrassment, mental anguish and emotional distress, and DEFENDANT is liable to PLAINTIFF for PLAINTIFF'S actual damages, statutory damages, and costs and attorney's fees.

CLASS ACTION ALLEGATIONS

23. Plaintiff brings this action individually and on behalf of all others similarly situated, as a member of the proposed class (hereafter "The Class") defined as follows:

All persons within the United States who received any telephone calls from Defendant to said person's cellular telephone made through the use of any automatic telephone dialing system or an artificial or prerecorded voice and such person had not previously consented to receiving such calls within the four years prior to the

1 filing of this Complaint

2 24. Plaintiff represents, and is a member of, The Class, consisting of All
3 persons within the United States who received any collection telephone calls from
4 Defendant to said person's cellular telephone made through the use of any
5 automatic telephone dialing system or an artificial or prerecorded voice and such
6 person had not previously not provided their cellular telephone number to
7 Defendant within the four years prior to the filing of this Complaint.

8 25. Defendant, its employees and agents are excluded from The Class.
9 Plaintiff does not know the number of members in The Class, but believes the Class
10 members number in the thousands, if not more. Thus, this matter should be
11 certified as a Class Action to assist in the expeditious litigation of the matter.

12 26. The Class is so numerous that the individual joinder of all of its
13 members is impractical. While the exact number and identities of The Class
14 members are unknown to Plaintiff at this time and can only be ascertained through
15 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
16 The Class includes thousands of members. Plaintiff alleges that The Class
17 members may be ascertained by the records maintained by Defendant.

18 27. Plaintiff and members of The Class were harmed by the acts of
19 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
20 and Class members via their cellular telephones thereby causing Plaintiff and Class
21 members to incur certain charges or reduced telephone time for which Plaintiff and
22 Class members had previously paid by having to retrieve or administer messages
23 left by Defendant during those illegal calls, and invading the privacy of said
24 Plaintiff and Class members.

25 28. Common questions of fact and law exist as to all members of The
26 Class which predominate over any questions affecting only individual members of
27 The Class. These common legal and factual questions, which do not vary between
28 Class members, and which may be determined without reference to the individual

1 circumstances of any Class members, include, but are not limited to, the following:

- 2 a. Whether, within the four years prior to the filing of this
3 Complaint, Defendant made any collection call (other than a
4 call made for emergency purposes or made with the prior
5 express consent of the called party) to a Class member using
6 any automatic telephone dialing system or any artificial or
7 prerecorded voice to any telephone number assigned to a
8 cellular telephone service;
- 9 b. Whether Plaintiff and the Class members were damages
10 thereby, and the extent of damages for such violation; and
- 11 c. Whether Defendant should be enjoined from engaging in such
12 conduct in the future.

13 29. As a person that received numerous collection calls from Defendant
14 using an automatic telephone dialing system or an artificial or prerecorded voice,
15 without Plaintiff's prior express consent, Plaintiff is asserting claims that are
16 typical of The Class.

17 30. Plaintiff will fairly and adequately protect the interests of the members
18 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
19 class actions.

20 31. A class action is superior to other available methods of fair and
21 efficient adjudication of this controversy, since individual litigation of the claims
22 of all Class members is impracticable. Even if every Class member could afford
23 individual litigation, the court system could not. It would be unduly burdensome
24 to the courts in which individual litigation of numerous issues would proceed.
25 Individualized litigation would also present the potential for varying, inconsistent,
26 or contradictory judgments and would magnify the delay and expense to all parties
27 and to the court system resulting from multiple trials of the same complex factual
28 issues. By contrast, the conduct of this action as a class action presents fewer

1 management difficulties, conserves the resources of the parties and of the court
2 system, and protects the rights of each Class member.

3 32. The prosecution of separate actions by individual Class members
4 would create a risk of adjudications with respect to them that would, as a practical
5 matter, be dispositive of the interests of the other Class members not parties to such
6 adjudications or that would substantially impair or impede the ability of such non-
7 party Class members to protect their interests.

8 33. Defendant has acted or refused to act in respects generally applicable
9 to The Class, thereby making appropriate final and injunctive relief with regard to
10 the members of The Class as a whole.

11
12 **FIRST CAUSE OF ACTION**

13 **Negligent Violations of the Telephone Consumer Protection Act**

14 **47 U.S.C. §227 et seq.**

15 **By Plaintiff and The Class Against Defendant**

16 34. Plaintiff repeats and incorporates by reference into this cause of
17 action the allegations set forth above at Paragraphs 1-33.

18 35. The foregoing acts and omissions of Defendant constitute numerous
19 and multiple negligent violations of the TCPA, including but not limited to each
20 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

21 36. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*
22 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
23 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

24 37. Plaintiff and the Class members are also entitled to and seek
25 injunctive relief prohibiting such conduct in the future.

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SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

By Plaintiff and The Class Against Defendant

38. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-33.

39. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

40. As a result of Defendant's knowing and/or willful violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

41. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

THIRD CAUSE OF ACTION

Violations of the Federal Fair Debt Collection Practices Act

15 U.S.C. § 1692 et seq.

By Plaintiff, Individually, Against Defendant

42. Plaintiff repeats and reincorporates by reference into this cause of action allegations set forth above at paragraphs 1-22.

43. To the extent that Defendant's actions, counted above, violated the RFDCPA, those actions were done knowingly and willfully.

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FOURTH CAUSE OF ACTION

Violations of the Rosenthal Fair Debt Collection Practices Act

Cal. Civ. Code § 1788 et seq.

By Plaintiff, Individually, Against Defendant

44. Plaintiff repeats and reincorporates by reference into this cause of action allegations set forth above at paragraphs 1-22.

45. To the extent that Defendant's actions, counted above, violated the RFDCPA, those actions were done knowingly and willfully.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's negligent violations of *47 U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to *47 U.S.C. 227(b)(3)(B)*.
- Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's willful and/or knowing violations of *47 U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for

each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).

- Any and all other relief that the Court deems just and proper.

THIRD CAUSE OF ACTION

Violations of the Federal Fair Debt Collection Practices Act

15 U.S.C. § 1692 et seq.

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
- B. Statutory damages for willful and negligent violations;
- C. Costs and reasonable attorney's fees,
- D. For such other and further relief as may be just and proper.

FOURTH CAUSE OF ACTION

Violations of the Rosenthal Fair Debt Collection Practices Act

Cal. Civ. Code § 1788 et seq.

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
- B. Statutory damages for willful and negligent violations;
- C. Costs and reasonable attorney's fees,
- D. For such other and further relief as may be just and proper.

